

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

NEAL GLESSNER

Plaintiff

v.

CHARDAN, LLC

Defendant

CASE NO. C-2I-CV-22-000156

**PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO
MOTION TO COMPEL AND FOR CERTAIN IMMEDIATE SANCTIONS**

Plaintiff, Neal Glessner, by and through his attorneys, Adam D. Greivell, Esq., and Greivell & Garrott Johnson, LLC, files this Plaintiff's Reply to Defendant's Opposition to Motion to Compel and for Certain Immediate Sanctions, pursuant to Md. Rules 2-432, and 2-433, and for reasons states:

1. Plaintiff served the Defendant with Interrogatories and Requests for Production of Documents along with the Complaint and Summons on April 2, 2022.
2. Having received no discovery responses by June 30, 2022 after several good faith efforts, Plaintiff filed a Motion to Compel.
3. On July 7, 2022, Defendant served partial responses, but several, perhaps even a majority, of them were non-responsive. True and accurate copies of Defendant's responses are attached as exhibits hereto.

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4. Interrogatory Number 1 sought the identity of each witness, but Defendant's Answer did not provide addresses or phone numbers as requested in the instructions. Nor did it adequately explain the "subject matter of the information possessed" by each witness.
5. Interrogatory Numbers 5 and 6 requested the identity of all members and assets of CharDan, LLC, and Defendant objected and refused to answer, asserting it "is not likely to lead to admissible evidence." This information is relevant not only because punitive damages are in play, but also because it tends to show who is controlling operations. It sheds light on the practices, policies, and procedures of the business, employees, agents, etc., and sheds light on who is culpable for the conduct asserted of in the Complaint, as well as the degree of culpability.
6. Interrogatory Number 8 requested the Defendant to identify "all written communications or statements made by CharDan, LLC or any of its agents or employees that relate in any way to Plaintiff." Defendant objected and refused to respond, claiming that the request is "overbroad" and "duly burdensome."¹
7. In the previous interrogatory (number 7), however, Defendant which asked to identify "all social media sites, group chats or group discussion areas ... that you or any of your employees use to communicate regarding work or social matters," Defendant responded only that "Defendant's employees communicate in person or over the telephone regarding work matters."
8. Thus, if the answer to number 7 was truthful, then a response to number 8 cannot possibly be unduly burdensome. Nor is it overbroad, as it requests information directly related to the Plaintiff.

¹ Plaintiff assumes Defendant meant "unduly" burdensome, as a "duly" burdensome request would generate no basis for objection.

9. Moreover, the answer provided to number 7 is demonstrably untruthful as Plaintiff is in possession of at least *some* social media posts demonstrating communications between and among Defendant and its employees regarding both work and social matters.
10. In the Defendant's answer to interrogatory number 9, Defendant did not provide contact information for the employees and contractors identified.
11. Interrogatory number 10 requested social media accounts and usernames used by Defendant's employees and agents. Defendant refused to answer, stating that they communicate in person or over the telephone. Defendant's answer is nonresponsive to the question which seeks relevant and material information.
12. Interrogatory number 11 asks Defendant to "Identify and describe any actions that CharDan, LLC have taken in response to the February 18, 2022 incident described in the Complaint, including but not limited to staff meetings, deletion of posts, instructions given to staff about this matter, etc."
13. Defendant objected and refused to answer, claiming that "actions' is undefined" and that it "seeks material made in anticipation of litigation."
14. First, the word "actions" has a "plain-English" meaning. Second, the interrogatory provided a non-exclusive list of things that constitute "actions" for the purpose of the question, "including but not limited to staff meetings, deletion of posts, instructions given to staff about this matter, etc."
15. To the extent that Defendant seeks to assert a privilege related to "materials made in anticipation of litigation," the mere allegation that some of the responsive answer may include some material that may be the subject of a privilege does not give Defendant *carte blanche* to refuse to answer the question in its entirety. Defendant should be

required to submit a privilege log reasonably identifying the information so that Plaintiff can evaluate the *bona fides* of the claims and make an intelligent decision on whether to challenge the same.

16. Interrogatory number 12 requested the identity of civil, administrative or criminal legal proceedings involving CharDan, LLC or any of its employees since January 1, 2020.
17. Defendant refused to answer, claiming that it “is not likely to lead to admissible evidence.” To be clear, discovery requests must be “reasonably tailored to lead to the discovery of admissible evidence.” The objection that it is “not likely to lead to admissible evidence” does not accurately state the basis of a valid discovery objection. Moreover, the interrogatory is reasonably tailored to lead to the discovery of admissible evidence, because the existence and nature of other legal proceedings can shed light on course of conduct of Defendant or its agents or employees that could have a bearing on their character, practice, habit, past or present history of discrimination, and help answer the question as to the state of mind of the Defendant and level of legal culpability/fault and/or the existence of actual malice.
18. In response to Interrogatory number 13, Defendant failed to identify the employee or the “instance,” as requested.
19. In answer to interrogatory number 17, Defendant failed to identify the dates and times of the kitchen closures, as requested.
20. Interrogatory number 21 requested a description of the active involvement of Daniel AufdemBrinke with CharDan, LLC during the relevant period of time. Defendant refused to answer, asserting, again that it is “not likely to lead to admissible evidence.” The information is relevant because it sheds light on the level of care given to the

operations, and helps answer the question as to the state of mind of the Defendant and level of legal culpability/fault and/or the existence of actual malice.

21. In answer to interrogatory number 22, Defendant failed to identify the witnesses to each event described.
22. In answer to interrogatory number 25, Defendant did not answer whether it ever condoned or reprimanded any employee drinking during shift hours.
23. In answer to interrogatory number 26, Defendant did not identify the causes and charities as requested in the interrogatory.
24. Defendant's responses to Plaintiff's Requests for Production of Documents were similarly lacking.
25. In response to request number 2, defendant claimed not to have any "documents upon which you will base any portion of any claim or defense on which you intend to rely at trial."
26. In response to request number 6, Defendant claimed not to have any "reports, memos, notes or other documentation kept during the ordinary course of business relevant to the subject occurrences."
27. In response to request number 7, Defendant claimed not to have any "correspondence sent to or received from any source relevant to the subject Occurrence."
28. In response to request number 10, Defendant claimed not to have any "photographs, video tapes, motion pictures, diagrams, objects, prints or depictions in whatever form, that relate to, concern, or refer to the matters asserted in the Complaint and any defenses thereto."

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29. In response to request number 15, Defendant claims that, other than a chalkboard for upcoming events, it has no other "posters, notices or comment boards that are in common areas or staff only areas within the restaurant, as have been displayed since January 1, 2020."
30. The response to request number 16 was non responsive to the substance of the request.
31. In its response to request number 17, Defendant refused, on the basis of claimed over breadth and being "duly burdensome," to produce photographs of its employees' "tattoos that may depict, describe or characterize any of the following subject matter: old people, CEOs, executives, white people / Caucasians, or any other social cause."
32. In its response to request number 19, Defendant refused, on the basis of claimed over breadth and being "duly burdensome," to produce "reviews given by CharDan, LLC or any of its members, agents or employees for any restaurant, service companies, places of interest or medical providers since January 1, 2020."
33. Although Defendant acknowledged having two handbooks, Defendant declined to produce copies of the same in response to request number 20.
34. In sum, Defendant's responses to Plaintiff's discovery requests have been woefully inadequate, and, frankly, are not credible.
35. Defendant should be ordered to provide comprehensive, complete and non-evasive discovery responses within 10 days, or be subject to further sanctions from this Court.

WHEREFORE, Plaintiff hereby respectfully requests that this Honorable Court issue an Order compelling the Defendant to provide complete and non-evasive responses to the Plaintiff's Interrogatories and Request for Production of Documents within ten (10) days,

and award Plaintiff an amount not exceeding \$500.00 as sanctions for Plaintiff's reasonable attorney's fees in connection with the preparation, filing and review of any response filed in connection with this instant motion.

Respectfully submitted,

/s/ Adam D. Greivell
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of July, 2022, a copy of the foregoing Reply to Opposition to Motion to Compel and for Certain Immediate Sanctions was served via MDEC on Charles B. Peoples, Esq., attorney for Defendant. All other persons entitled to service, if any, were served by the MDEC system.

/s/ Adam D. Greivell
Adam D. Greivell, Esquire

CERTIFICATE REGARDING RESTRICTED INFORMATION

I HEREBY CERTIFY that this document does not contain any restricted information.

/s/ Adam D. Greivell
Adam D. Greivell, Esquire

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